

The Sarbanes-Oxley Act

The Impact of RM on DM, CM, and IM

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Purpose of This Presentation

- Educating the practitioner community of SOX requirements and their associated regulations
- Informing the practitioner community of the scope, breadth, depth, and impact of SOX
- Encouraging the development of practices in CM, DM, RM, and IM that will establish, reinforce, or contribute to SOX compliance

What does SOX mean to CM, DM, and the Enterprise? A great deal.

Sarbanes-Oxley Scope

● Data

- Information Management (digital information)
- Data Management (business and technical data)
 - Configuration Management (to an extent)
- Records Management (wholly)

● Processes and procedures

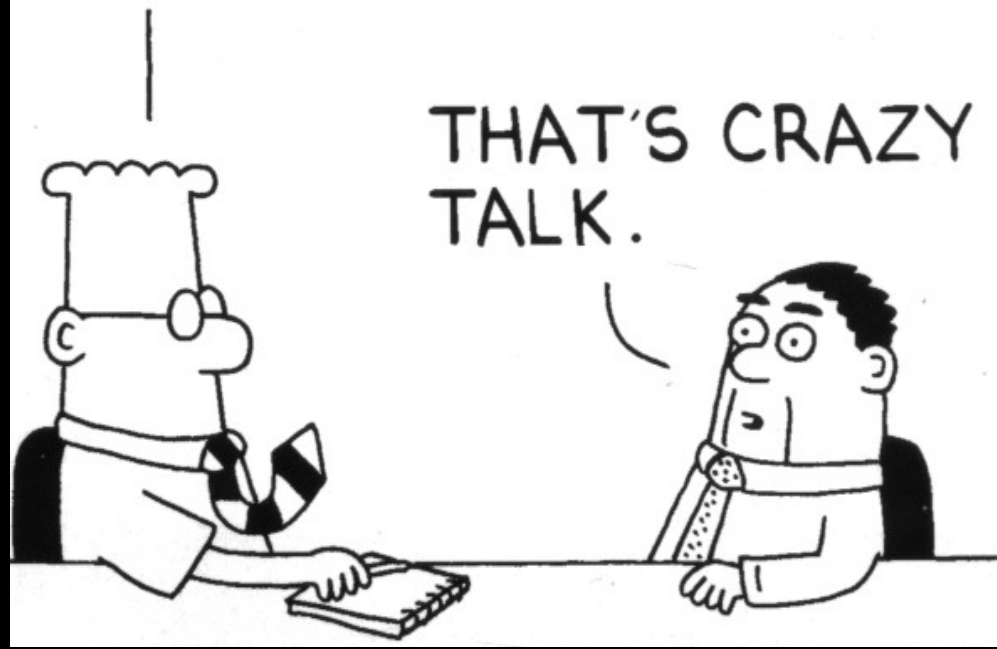
● Situation outcomes

- The SOX Act requires all corporations to align IT, Risk (e.g., financials), technical data, information, corporate knowledge resources with an integrated control process inclusive of Change Management

Does this constitute mandatory CM, DM, and KM?

The Major Implication of SOX

I DON'T MEAN TO
FRIGHTEN YOU, BUT
YOU'LL HAVE TO DO
SOME ACTUAL WORK.



How SOX Got Started

- Legal response to ENRON and similar situations
 - Perception and reality of corporate malfeasance
 - Can be said to apply to not just publicly traded companies
 - But also against additional defendants against whom they can assert and prove liability
 - Example: auditors, law firms providing counsel to companies, even foreign suppliers
- Applies to – but does not directly regulate – accounting records and supplemental

How SOX Provides Oversight

- Oversight is mandated

- Mechanisms are in place for investigation and enforcement

- Standards are set

- Required outcomes and certifications of those outcomes are defined

- Penalties are provided

- Civil and criminal – potentially severe
- Incentives not only to comply, but to stay away from an appearance of not complying

Creates an overall climate for even privately held firms, non-profit organizations must adhere to financial accountabilities that assure public trust

The Seven Essential Strategies

- 1: Set up, maintain, and ensure compliance with a corporate records retention program
- 2: Review and understand the retention schedule
- 3: Establish records retention schedules that comply with the SOX Act
- 4: Include policies and procedures for litigation and investigation holds
- 5: Reexamine file plans, indexing, data structure, and nomenclature conventions
- 6: Use clearly understood, consistent naming conventions
- 7: Document the certification and complaint processes

■ Beyond RM (Enterprise CDM)

■ RM function

Role of Effective RM Programs in Satisfying SOX Requirements

- Corporate reports are specified and required
 - Consistent with and supported by corporate records
- Corporate governance
- Enhanced corporate disclosure
- Disclosure controls, procedures, and practices
- Financial audit practices/procedures
- Enforcement and procedures

SOX says that corporate leaders must focus on the information and knowledge that their records contain – or face criminal penalties

So where does DM fit in?

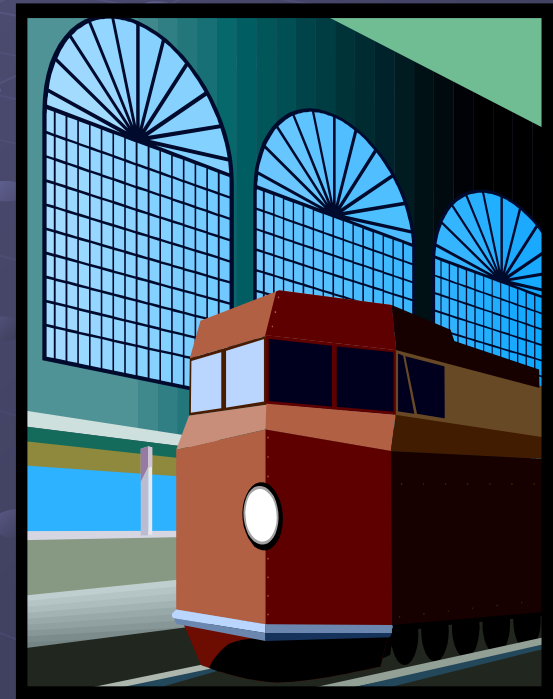
- DM is the locator and custodian of much business and technical information
- DM is the broker for sharing, collecting, managing information
- DM is the metadata creator
- DM is the archiver
- DM is the facilitator and communicator for data-related issues
- DM provides the use rules for the data

So where does CM fit in?

- CM uses, provides, generates data
- CM applies identification, version, change of data
- CM provides the infrastructure on which the data is managed throughout the project and the organization
- CM provides the vehicle for the use of the data

So where does IT fit in?

- IT moves the data through the enterprise and the project
- IT acts on the rules and the infrastructure that DM and CM provide
- IT is the automation of the processes that CM and DM design



Data rides the rails of IT

The Sticky Wicket of SOX

- SOX does not have detailed guidance for corporate recordkeeping compliance
- It mandates an end-state without providing the tools to create the end-state
- Technical records compliance, content analysis of the data, information and knowledge the records contain is the domain of the end-state
- RM understands the requirement, but **it is not prepared to assume analysis of information content of corporate records**
- **That's where CM, DM, and KM can contribute**

Why Measuring the Quality of Knowledge is Difficult

- Requires thinking beyond the rational, “engineering” mentality
- Requires inclusion of “soft” thinking – human factors, human traits, human reactions
- Requires speculation about the future – and the willingness to be wrong and to accept risk
- Involves using quality criteria that seem bounded and defined but applied differently depending on “importance” gauges
- Requires willingness to experiment, tune, and measure “success” by a unique yardstick
- Involves recognition that extremely valuable information and knowledge must be evaluated continually

Fundamental Premises of CM, DM, and KM

Specific Sections of SOX That Impact Records Management

SECTION	RELEVANCE
102 (e)	Annual Reports Inspection
103 (a), (2)(A)(i)	Quality control and ethical standards per confidentiality laws
	Audit report retention schedule for 7 years
	Doc of testing of internal controls and whether they meet auditing and records maintenance
106	Foreign accounting firms that issue/perform material services for US companies are subject to submittal of audit work papers
1102	Penalties of fine or imprisonment for corruptly altering, destroying, mutilating, or concealing records or documents

19 Sections of SOX have RIM Implications

SOX is a nightmare for employers

- Very aggressive timetable for compliance
- Protections for whistleblowers
 - Vengeful actions are immaterial
 - Subject to what the employee reasonably believes to be a violation of securities law
- Protection for witnesses or those who testify in an investigation
- Substantial relief for employees who cooperate is an entitlement of SOX
- Win or lose, the employer defending himself pays his own litigation costs and attorney fees

SOX applies equally to business owners, executives, managers, line supervisors, and human resources professionals

Retention of Records Relevant to Audits and Reviews

- Audit reports
- Intentional and negligent Acts
- Foreign accounting firms
- Protection of whistleblowers
- Tampering with documents
- Violation of audit retention requirements
- Memoranda, correspondence, communications, other documents, and records shall be retained
 - Whether they support the auditor's final conclusions or contain information or data relating to the audit, or not

Other interesting aspects

- Time of retention is 7 years
 - Seven years from “when” is not clear
- “Workpapers” for audit purposes are clearly defined
 - Back-up copies, previous drafts included
- Voicemail messages are included, or can be included
- Paperwork Reduction Act may or may not apply
- Cost benefits analyses are encouraged
 - But not necessarily applicable
- Small Businesses are not exempted
 - “Small business” as defined by SBA as those with under 6M in annual revenues

Resource Credit

- The Sarbanes-Oxley Act: Implications for Records Management
 - Montana, Dietel, and Martins
 - ISBN: 1-931786-16X
- ARMA (Association for Records Management Administrators)
 - www.arma.org
 - Premiere organization for records managers
 - Desperately in need of CM, DM, and KM and they don't seem to be aware of it